
COUNTY OF LOUDOUN

DEPARTMENT OF BUILDING AND DEVELOPMENT

MEMORANDUM

DATE: April 4, 2007

TO: Loudoun County Planning Commission

FROM: Melinda Artman, Zoning Administrator *MA*
Marilee Seigfried, Deputy Zoning Administrator *MS*
Amy Lohr, Planner, Zoning Administration *AL*

SUBJECT: April 9, 2007, Planning Commission Work Session
ZOAM 2006-0003, Annual Review

Enclosed please find the following attachments for use at the Annual Review work session on April 9, 2007:

1. **Staff Comment (Part 1), Planning Commission Work Sessions—3/5/07, 3/12/07, 4/2/07 & 4/9/07.** This matrix has been updated to reflect the Planning Commission's recommendations on items 1 through 40. Attached to this matrix are specific recommendations for Section 5-1400 (item # 41) and proposed language for Section 6-403 (item # 45). Of the remaining items to be reviewed in this matrix, item #'s 44 and 48 are the more difficult, complex or policy related issues in staff's opinion. These issues may impact additional items the Commission may wish to recommend to the Board for consideration in an intent to amend.
2. **Staff Comment (Part 2), Planning Commission Work Session—4/9/07.** This matrix includes items #'s 53 through 78. Likewise, item #'s 54, 57, 62, 64, 68, 69, 73, 74, and 77 are the more difficult, complex or policy related issues in staff's opinion.
3. **Bin Items and Revisions Outside the Scope of the ZORC Draft**

If you have any questions, you may contact Amy Lohr at 703-737-8890 or via e-mail at Amy.Lohr@loudoun.gov.

Z. O. SECTION NUMBER			DISTRICT	PAGE NUMBER	STAFF COMMENT AND RECOMMENDATION	PLANNING COMMISSION COMMENT AND RECOMMENDATION
1	Section 1-103(N)(2), Route 28 Taxing District	All	1-7	Staff does not recommend any change to this section. This amendment would allow properties under the 1972 Zoning Ordinance to "opt-in" to the Revised 1993 Ordinance for one year following the revisions. The County Attorney is concerned that this change is inconsistent with notice requirements. (Converting from 1972 to Revised 1993 is a remapping.) A better solution may be a Board of Supervisors policy that applications may be made on a periodic basis to convert to the current zoning ordinance and map. In addition, it is noted that if the proposed changes recommended by ZORC are adopted by the Board, there is a density increase in the commercial/industrial planned development districts from the 1972 Ord. to the current Ord. The Code of Virginia may require notice of such changes.	Retain existing text.	Staff to develop language for Board of Supervisors to consider annual or bi-annual "bundling" of applications by policy rather than with a text amendment to this section.
2	Section 1-205(F) Yards on Corner Lots	All	1-13	Instead of two front yards and two side yards, a corner lot would have two fronts, one rear and one side yard. Staff is concerned that the revision will make it harder to build on some lots and the only remedy is a variance. Staff also notes that the CR Zoning Districts require a minimum rear yard of 50 feet. Side yards are significantly smaller than rear yards and the proposed change would ensure a full rear yard on corner lots.	Retain existing text.	(3/5/07)
3	Section 1-205(f)	All	1-14	Staff does not recommend any change. The amendment proposes a clarification of where to measure setbacks when right-of-way reservation is proposed that is greater than the planned right-of-way. The language appears to be unnecessary and is somewhat confusing. Any reservation of right-of-way would most likely be based upon the requirements of the Comprehensive Plan. Item (b) already states that the setback is measured from the right-of-way proposed in the Plan. If excess is given, by Ordinance, the setback is measured from what the Plan requires and not the additional provided.	Retain existing text.	Planning Commission would like to see a better example of the application of this section from ZORC Chairman/Vice-Chairman.
4	Section 1-206(C), 1-206(C)(1)(a)	All	1-17	These Sections have been previously interpreted to include roads shown on the CTP as it relates to CR-1 by-right subdivisions. This language would clarify past practice. However, this proposed change should be looked at in context with individual zoning district requirements particularly the TR, JLMMA, AR Zoning Districts. The JLMMA District regulations state "The maximum gross density shall be ____ unit per ____ square feet, calculated on the overall parcel, excluding roads." TR district regulations state, "The maximum gross density allowed in TR districts is ____ dwelling unit per ____ square feet or ____ acres." Roads are not excluded. There appears to be a conflict between this Section of the Zoning Ordinance and the JLMMA District regulations.	Accept proposed text.	Expand current intent to amend or initiate new intent to amend to include revisions to residential districts (Articles 2 & 3) to reflect density (dwellings per acre) and provide consistency with density credit regulations in Article 1.
5	Section 1-300(B)(9) Section 6-407(A)(3)	All	1-21 6-14	Staff does not recommend any change to these sections. This amendment would allow the Zoning Administrator to interpret and "adjust" district boundaries. "Adjusting" boundaries could be construed as a remapping.	Retain existing text.	(3/5/07)

* This is an example of where amendments have "overtaken" the ZORC draft.

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6	Section 1-404(A), Use of Nonconforming Lots	All	1-24	Currently, a nonconforming lot can be used even though it does not meet the lot area, access and/or lot width requirements of the district. This amendment broadens it to any requirement of the district. Staff questions whether this change is necessary.	Revise proposed text. In line 7 of the paragraph, do not strike the word "lot" before "access." The proposed text will read: "If a lot was recorded prior to the effective date of this Zoning Ordinance, or is hereafter created in conformity with Section 1-103(H), and such lot met the requirements of the Zoning Ordinance in effect at the time of recordation, or complies with Section 1-103(H), then such lot may be used for any use permitted in the Zoning District in which it is located even though it does not meet the lot requirements of the district, provided all the other regulations of this Ordinance can be satisfied." (3/5/07)
7	Section 1-404(C), Boundary Line Adjustments	All	1-25	Staff does not support this change. This amendment simplifies the boundary line adjustment process. Requiring lots to be in compliance with lot area at the time the lot was created will be difficult to administer and may require substantial research. In addition, such research may result in the identification of lots that were created "illegally." The amendments would also permit conforming lots to become nonconforming, which staff does not support. In general, the degree of nonconformity should not be allowed to increase for nonconforming lots. This amendment permits a structure that has terminated its nonconforming status to lawfully exist unless it is abandoned or discontinued for two years. The current time period is 180 days and staff does not see the need for an extension of this time period.	Revise proposed text. Staff to develop new text addressing when boundary line adjustments may occur. (3/5/07)
8	Section 1-405(D)	All	1-26	This amendment permits a structure that has terminated its nonconforming status to lawfully exist unless it is abandoned or discontinued for two years. The current time period is 180 days and staff does not see the need for an extension of this time period.	Revise proposed text. Change specified time period to 1 year. (Motion passed 8-1, Syska opposed.) (3/5/07)
9	Articles II & III, Length/width ratios	A-10, A-3, CR-1, CR-2, CR-3, CR-4, RC R-1 to R-8		Staff is generally supportive of this change. However, in those districts that permit clustering, lot width is reduced to 60 feet. Increasing the length to width ratio may result in narrower lots.	Accept proposed text. (3/5/07)
10	Section 2-403(HHH)	A-3	2-58	Staff is concerned that adding "recreation establishment, indoor" to the list of special exception uses in the A-3 is not consistent with the purpose of the district or the Revised General Plan's Rural Policy Area. These types of facilities do not rely upon the rural land resource for their operation nor are they considered rural economy uses.	Accept proposed text. Expand current intent to amend or initiate new intent to amend to add this use to the AR-1 and AR-2 districts. (3/5/07)

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11	Sections 2-511, 2-612, 2-712 & 2-812	CR-1, CR-2, CR-3, CR-4	2-66, 2-72, 2-78, 2-83	Staff does not support this change as proposed. These sections state that the requirements of Section 5-900 shall be observed "unless a lot was the subject of a boundary line adjustment application that previously provided access from said arterial or major collector road or said lot is the subject of a subdivision application for 3 lots or less within this district." It is not clear whether the exemption contained in Section 2-511 exempts such lots from the setbacks or only from the requirement associated with access to these roads. If the intent is to permit existing lots that are adjusting property boundaries to continue to have access to an arterial or major collector road, staff currently interprets that such lots may continue to have access since no new lots are being created. Staff does not understand the purpose of allowing 3 lots or less to be exempt from the access requirements. This would appear to promote piecemeal development by encouraging properties with a lot of road frontage to subdivide under either the two lot waiver provisions or a three lot preliminary/record plat. Why would the setbacks not apply in these situations?	Revise proposed text. Strike all text after the word "observed" in line 3 of the paragraph. The proposed text will read: "In designing residential development, the requirements of Section 5-900 shall be observed."	(3/5/07)
12	Section 2-903(NN) Permitted Uses	RC	2-86	Also, this change was not made to the TR-districts. Staff does not support adding "mill, feed and grain" to the list of permitted uses coupled with exempting such use from the square footage maximum. Consider requiring special exception for use or not exempting this use from the square footage maximum to ensure compatibility with the scale and character of the existing rural commercial district.	Retain existing text in Section 2-904(K). Strike proposed text in Section 2-903(NN). Retain "Mill, feed and grain" as a special exception use.	(3/5/07)
13	Section 2-904(A) & (B), Special Exception Uses	RC	2-86	This amendment increases the size of a single use in RC from 10,000 s.f. to 15,000 s.f. (except for agriculture and certain ag-related uses) and eliminates the requirement that any one use exceeding 50% of the district obtain a SPEX. Staff is concerned these changes may result in uses less compatible with existing character and neighborhood scale of the district and result in less business diversity.	Accept text in Section 2-904(A) to increase square footage limit to 15,000 s.f. Strike all proposed text following the word "area." The proposed text will read: "Any one permitted use in excess of 15,000 sq. ft. in gross floor area." Accept deletion of Section 2-904(B).	(3/5/07)
14	Section 2-910, Dev. Setback and Access From Major Roads	RC	2-89	Staff is concerned about the use of the term "commercial development" as this term is not defined. Staff suggests "nonresidential development."	Revise proposed text consistent with staff recommendation. The proposed text will read: "In designing nonresidential development, the requirements of Section 5-900 shall be observed."	(3/5/07)
15	Section 3-107(A) & 3-108(A) Lot Coverage	R-1	3-5	This amendment makes lot coverage the same for all three development options in the R-1. Staff finds that this change reduces the incentive for clustering in R-1. Lot coverage should be higher for lots that have clustered.	Revise proposed text. Increase lot coverage in Sections 3-108(A) and 3-109(A) to 30% maximum.	(3/5/07)
16	Section 3-1003(NN), Storage of empty solid waste vehicles and containers	MR-HI	3-63	Additional use to MR-HI: "storage of empty solid waste vehicles and containers." Staff finds that this use fits within "outdoor storage, vehicle." Solid waste vehicle is not a defined term currently. Amend current Article 8 definition or make no change.	Amend Article 8 to add a definition for "solid waste vehicle" and "solid waste container." Staff to develop proposed text.	(3/5/07)

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STAFF COMMENT (PART I), PLANNING COMMISSION WORK SESSIONS
3/5/07, 3/12/07, 4/2/07 & 4/9/07
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17	Section 4-206(D), Vehicular Access	PD-CC	4-20	Staff does not support eliminating this section. Rather, staff suggests revising the wording as follows: "Primary access and through vehicular traffic shall be prohibited on residential neighborhood streets. This prohibition does not apply to residential collector streets."	Revise proposed text. The proposed text will read: "Primary access shall be prohibited on residential neighborhood streets. This prohibition does not apply to collector roads through residential neighborhoods." (3/12/07)
18	Section 4-302(A), Size and Location	PD-OP	4-25	Staff suggests revising the location requirements for the PD-OP to "On arterial or collector roads."	Revise proposed text consistent with staff recommendation. Retain Section 4-302(A). The proposed text will read: "On arterial or collector roads." (3/12/07)
19	Section 4-307(E), Site Planning	PD-OP	4-31	Staff recommends this language be retained. This amendment eliminates the requirement for a park-like character in PD-OP districts. The current language supports the Revised General Plan policies that promote compact development that has minimal impact on the natural environment or surrounding land uses through innovative site design.	Revise proposed text. The proposed text will read: "Within any PD-OP district, landscaping, buffering, and screening shall be used to screen outdoor storage, areas for collection of refuse, loading areas and parking from streets, agricultural and residential uses." (3/12/07)
20	Section 4-307(F), Development Setback and Access from Major Roads	PD-OP	4-32	Staff does not support eliminating this section. Rather, staff suggests revising the wording as follows: "Primary access and through vehicular traffic shall be prohibited on residential neighborhood streets. This prohibition does not apply to residential collector streets. Minor streets shall not be connected with streets outside the district in such a way as to encourage the use of such minor streets by through construction traffic."	Revise proposed text. The proposed text will read: "Primary access shall be prohibited on residential neighborhood streets. This prohibition does not apply to collector roads through residential neighborhoods." (3/12/07)
--	Section 4-206(C), Building Height	PD-CC	4-20	The Planning Commission discussed this section, which proposes an increase in maximum building height from 35 feet to 45 feet. This section also amends the requirements for exceeding the height limit. The ZORC draft proposes a distance of not less than one foot for each one foot of height in addition to each of the required minimum yard dimensions. This section currently requires two feet for each one foot of height above the maximum.	Accept proposed text to increase building height to 45 feet. (3/12/07)
21	Sections 4-503(BE) & 4-504(R) Permitted Uses	PD-IP	4-44 4-45	Amends permitted use list to add that churches, synagogues, temples or mosques may include private schools, child and adult day care facilities and associated uses (not accessory uses). Makes a child care center associated with a church by-right with no additional standards and others by special exception and subject to 5-609(B). Staff suggests that all child care centers be treated the same in PD-IP. Additionally, these uses represent civic, educational and institutional uses that may be incompatible with industrial uses. Staff notes that public and private schools should be treated identically. Both uses currently require a special exception.	Staff to develop revised text. (3/12/07)
22	Section 4-504(S), Special exception uses	PD-IP	4-45	Suggest "contractor service establishment, excluding retail sales and outdoor storage" be a permitted use.	Accept staff recommendation. Add this amendment to list of bin items to be considered when developing a streamlined list to BOS. (3/12/07) (4/2/07)

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23	Section 4-507(E)(1), Retail Sales as an accessory use	PD-IP	4-49	Staff does not support this change. This amendment would eliminate the requirement that warehousing facilities w/ accessory retail sales store goods for at least one retail establishment located in a zoning district where retail is a permitted principal use. Additional retail would produce more trips than PD-IP.	Subcommittee formed to develop performance standards. (Whitmore, Syska and Hsu).	(4/2/07)
24	Sections 4-507(G)(2), 4-607(F)(2) Access	PD-IP PD-GI	4-51, 4-60	Staff suggests revising the wording of this section rather than eliminating the provision that states "Primary access and through vehicular traffic impacting residential neighborhoods shall be avoided. Minor streets shall not be connected with streets outside the district in such a way as to encourage the use of such minor streets by through and construction traffic." Staff does not support access to industrial zones via local residential streets.	Revise consistent with item # 17 above. Revise proposed text. The proposed text will read: "Primary access shall be prohibited on residential neighborhood streets. This prohibition does not apply to collector roads through residential neighborhoods."	(4/2/07)
25	Sections 4-707(D)(3), 4-808(Q)(2) Access	PD-SA PD-TC	4-67, 4-77	Staff suggests revising the wording of this section rather than eliminating the provision that states, "Primary access and through vehicular traffic impacting residential neighborhoods shall not be permitted." Staff does not support access to the special activity and town center zones via local residential streets.	Revise consistent with item # 17 above. Revise proposed text. The proposed text will read: "Primary access shall be prohibited on residential neighborhood streets. This prohibition does not apply to collector roads through residential neighborhoods."	(4/2/07)
26	Section 4-1209(A)(16) Permitted Uses	PD-RV	4-156	Permitted uses in the PD-RV currently include "public water and wastewater facilities including land application fields, identified on the approved Concept Development Plan." The amendment proposes to strike "identified on the approved Concept Development Plan." Staff thinks that public utilities should be reviewed at the time of rezoning.	Accept proposed text.	(4/2/07)
27	Section 4-1214, Utility Design and Financing Requirements	PD-RV	4-166	Staff does not support the change. Staff believes that application review and approval falls under the purview of the Board of Supervisors.	Retain existing text.	(4/2/07)
28	Section 4-1500, Floodplain Overlay District	All	4-192	Staff does not support removing Floodplain standards from the Zoning Ordinance. There is no companion amendment to the Facilities Standards Manual (FSM) being proposed at this time. The State Floodplain Coordinator has been contacted and agrees that this language should remain within the Zoning Ordinance.	Retain existing text. Retain Floodplain standards in the Zoning Ordinance.	(4/2/07)
29	Section 4-1503(A), Alteration	All	4-192	Staff does not support the elimination of "clearing" as an example of a floodplain alteration. Clearing should remain in the list because clear-cutting or extensive removal of undergrowth could have a significant effect on the flood velocity and depth of flow. There should be a clarifying statement as to when clearing vegetation justifies the need for a floodplain alteration. It should be left within the ordinance in order to alert landowners and developers that extensive clearing within floodplains could adversely impact adjacent properties.	Revise proposed text. The proposed text will read: "A development action which will change the cross section of the floodplain and will increase either the erosive velocity or height of floodwaters either on-site or off-site. Alterations include, but are not limited to, land disturbing activities."	(4/2/07)

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30	Section 4-1505(A)(12), Road Crossings	All	4-196	Staff recommends retaining the language in Section 4-1505(A)(12). The Zoning Ordinance is the appropriate document to set the standards and limitations on floodplain alterations. The FSM should provide engineering detail and procedures that support the requirements of the Zoning Ordinance. When issues of health and public safety are concerned, the "meat" of the regulation should be in the Zoning Ordinance. The FSM does not carry the regulatory authority that the Zoning Ordinance does and every provision of the FSM can be waived by the Director of Building and Development. Where protection against loss of life and property is at risk, the Zoning Ordinance should dictate the standards under which a floodplain alteration can be approved.	Retain existing text.
31	Section 4-1508(A) & (B), Alterations	All	4-199	Staff recommends retaining the language in Section 4-1508(A) in the Zoning Ordinance. Section 4-1508(B)(4), (5), and (6) could be moved to the FSM but Section 4-1508(B)(1), (2), (3), and (7) should remain in the Zoning Ordinance.	(4/2/07) Retain existing text. Staff to coordinate with the FSM Committee on sections that may be moved to the FSM at a later date.
32	Sections 5-200, 5-200(A) & 5-200(B)	All	5-4	This amendment would equate yards, setbacks and buffers. Staff supports the elimination of a difference between yards and setbacks. However, staff does not support structures in buffers. Staff suggests the language referencing buffers be removed.	(4/2/07) Revise proposed text to delete reference to buffers. Section 5-200 to read: "Permitted Structures in Required Yards and Setbacks. The following shall be allowed in a required yard or setback provided applicable sight distance and fire safety requirements are met and maintained"
					Section 5-200(A) to read: "In all yards or setbacks, including a front yard" Section 5-200(B) to read: "In any yard or setback, except the front yard or setback"
33	Section 5-400(C), Home Occupations	All	5-8	This amendment increases the floor area that may be devoted to home occupation in an accessory structure from 25% to 49%. Staff suggests the square footage percentages be eliminated, as the provision is difficult to enforce.	(4/2/07) Accept staff recommendation. The proposed text will read: "The use of the dwelling for the home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes."
					Revise Section 5-400(E) to also remove percentages. Add amendment of this section to list of bin items to be considered when developing a streamlined list to BOS.
34	Section 5-500, Temporary Uses/Zoning Permits.	All	5-9	It may be helpful to add language to 5-500 clarifying that the restrictions apply to all districts. The Board of Supervisors recently adopted significant amendments to Section 5-500 with regard to temporary events.	(4/2/07) Accept staff recommendation. The proposed text will be added to Section 5-500 and will read: "These uses are permitted in all zoning districts, subject to the following." Staff to coordinate with County Attorney's Office to determine if this change is within the approved intent to amend.

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STAFF COMMENT (PART 1), PLANNING COMMISSION WORK SESSIONS
3/5/07, 3/12/07, 4/2/07 & 4/9/07
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35	Section 5-633(B), Airport/ Landing Strip, Site Size	AR JLMA-20 TR-10	5-69	The Planning Commission had previously recommended (3-20-06) that the minimum lot area for an airport/landing strip be increased from 25 acres to 80 acres. Recommend new intent to amend since ZORC did not consider changes to this use.	Add this amendment to list of bin items to be considered when developing a streamlined list to BOS.	(4/2/07)
36	Section 5-702(D) Permitted Uses	Rural Hamlet Option	5-109	Staff is unsure as to why "accessory uses" have been removed from the permitted use list for hamlet and conservancy lots. In order to ensure accessory structures and uses on hamlet lots, staff does not support this change.	Retain existing text.	(4/2/07)
37	Section 5-1102(B)(11) & (12)	All	5-134	In the parking regulations, funeral homes, etc. have been placed under cultural, recreational and entertainment uses. Staff suggests these uses stay under the Miscellaneous category with a title change to Section 5-1102(B)(12)(a). This does not affect the parking rate.	Reorganize section. Move "Places of Worship" from Section 5-1102(B)(12)(a) to new Section 5-1102(B)(1)(c). No text would appear after Section 5-1102(B)(12), Miscellaneous Uses. Revise Table 5-1101 consistent with this recommendation.	(4/2/07)
38	Section 5-1102(F)(1), Adjustments to Parking Requirements	All	5-139	This amendment would allow the Director of Building and Development with concurrence of the Zoning Administrator to approve reductions in parking spaces, rather than by SPEX to the BOS. The Director of Building and Development does not have a definition in Article 8 (Director of Planning does.) This also conflicts with the RC district provisions which give authority to the Zoning Administrator. Further, the Code of Virginia invests administration and enforcement authority only with the Zoning Administrator. Also, some re-wording is suggested to clarify that a SPEX may be applied for if the parking reduction does not fall into one of the specific instances set forth in paragraphs 2 through 5.	Revise proposed text. The proposed text will read: "In the specific instances set forth in Paragraphs 2 through 5 below, the Zoning Administrator may approve a reduction in required parking spaces. Applications for such a reduction shall include the following information and in the case of special exception shall also meet the requirements of Section 6-1300."	(4/2/07)
39	Section 5-1102(F)(1)(c)	All	5-140	This amendment adds a time period of 5 years to parking covenants. This is a relatively short period of time and is in effect, a very weak requirement. If a time period is necessary, staff recommends 20 years.	Accept staff recommendation. Indicate a period of time of 20 years.	(4/2/07)
40	Section 5-1303(B)	All	5-161	This change is no longer applicable, as ZOM 2005-0002 deleted Section 5-703 regarding AR Clusters.	No longer applicable.	(4/2/07)
41	Section 5-1400	All	5-163	The Engineering Division of Building and Development has a number of recommendations regarding this Section, which are included with this document on pages A10 to A12.		
42	Section 5-1403(E)	All	5-164	Staff does not support this addition. It now conflicts with the requirement for a type 5 buffer requirement along Route 50 in Section 5-1406(E)(4) [proposed to be (E)(3)]. Language needs to be reconciled with prior ZOM.		
43	Section 5-1508(B)(2)(a) Exemptions	All	5-202	Staff does not support this change. Staff suggests the following: "Construction of a single residential use on a legal lot existing as of June 16 th , 1993 is exempt from the requirements of Section 5-1508(D). Such exemption shall not apply to non-residential uses. Development of more than one residential use on such lot shall be subject to all other applicable standards in this Sections: 5-1508(E) and 5-1508(F)."		

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44	* Section 5-1508(D)(1)(c)(v), Steep Slope Standards, Permitted Uses in very steep slopes	All	5-204	ZORC proposed adding "drinking water supply systems and/or sanitary sewer collection systems and related facilities" as a permitted use in very steep slope areas. ZOAM 2006-0001 subsequently amended this section to add "drinking water supply reservoir subject to obtaining an approved 'Location Clearance Permit' from the Zoning Administrator or his/her designee." Staff has made no change to this section based on the more recent language adopted with the ZOAM (i.e. sanitary sewer collection systems would not be permitted in very steep slopes).	
45	Section 6-403(A), Submission Requirements	All	6-12	If the PC is inclined to recommend ZORC language, it is Staff's belief that all aspects of water supply lines and sewer collection systems should not be located on very steep slopes. Water lines and related facilities to water supply and sanitary sewer collection systems such as, but not limited to, accessory buildings, access roads, treatment facilities, and pump stations can be designed to avoid these sensitive areas. Furthermore, if a decision is made to allow for sanitary sewer lines to be located on very steep slopes, staff strongly recommends that development standards be included with the change to protect and minimize impacts to steep slopes and adjacent resources, such as streams, wetlands, and forest cover. The development standards should be developed cooperatively between staff and LCSA.	
46	* Section 6-701(C), Site Plan Required	AR-1 AR-2	6-26	The Board of Supervisors directed staff to amend the zoning ordinance to expand the disclosure requirements of this section. Staff has coordinated with the County Attorney's office and proposes language consistent with §15.2-2289 of the Code of Virginia. Staff's proposed language is on page A13.	
47	Section 6-1910 Historic Districts	All	7-5	ZORC proposed adding language to exempt the "agriculture support and services related to agriculture, horticulture and animal husbandry" use category from site plan requirements when such uses do not involve access by the public as a part of the use. ZOAM 2005-0002 subsequently amended this section to note that site plans are not required when a rural sketch plan is required. Staff has inserted ZORC's language into the newly adopted language and reconciled discrepancies.	
48	Article 8, Definitions Church, synagogue, temple or mosque	All	8-10	The County Attorney's office is concerned that we do not have the enabling authority to impose this requirement.	
49	Article 8, Definitions Heavy equipment	All	8-22	Deletes the term "accessory" and adds the term "associated" for other permitted uses related to a place of worship. Under this definition, the associated uses could occur without the place of worship. This change has the potential to introduce uses not anticipated in residential and other zoning districts and may have compatibility issues. Deletes "motorcycle" from this definition. However, no other definition appears to account for "Motorcycle or ATV sales, rental, repair and associated service" which has been added as a use.	
50	Article 8, Definitions Lot Coverage	All	8-27	The Lot coverage definition has been amended to state, "Parking structure below or above grade and stand-alone mechanical structures are excluded from lot coverage." Should garages and carports be considered "parking structures?"	

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STAFF COMMENT (PART I), PLANNING COMMISSION WORK SESSIONS

3/5/07, 3/12/07, 4/2/07 & 4/9/07

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51	Article 8, Definitions Setback and Setback	All	8-45	Staff recommends that the two definitions be reconciled if possible. Staff finds reliance on "point of reference" to be confusing. Suggest that the definition be based on lot lines.	
52	Article 8, Definitions Sign, Area of	All	8-46	This change also has an adverse impact on the administration of Section 5-600 performance standards. This amendment changes what is included in the area of a sign. Staff would suggest revising the language. The phrase "wall work incidental to..." is subjective and since that is now excluded, staff finds that it will be harder to consistently calculate the area of a sign.	

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**ZOAM 2006-0003,
Section 5-1400**

The Engineering Division of Building and Development has made a number of recommendations in regard to Section 5-1400, Buffering and Screening. The following are directly related to ZORC's proposed amendments:

1. Section 5-1403(A)(2): Staff agrees with adding "diameter at breast height". Staff suggest adding "(d.b.h., measured at 4 and ½ feet above ground level)" immediately afterwards.
2. Section 5-1403(D): This revision has the effect of reducing the overall tree canopy requirement. Equivalent numbers and types of plant materials should be planted elsewhere on the site so that the overall tree canopy is achieved. Staff suggests deleting "and are not required to be planted elsewhere and adding the following sentence at the end of this subsection: "This plant material must be located elsewhere on site in areas that provide room for viable plant growth".
3. Section 5-1403(E): This section should be clarified. For example, is the Type 3 Buffer Yard required adjacent to a six lane road? Staff does not support removing the 4-foot berm requirement adjacent to existing or planned arterial roads that is currently required in Section 5-1406(E)(2).
4. Section 5-1404(B): Staff does not support removing this section from the Zoning Ordinance. This section includes additional specifications required for landscape plans that are not included in Section 7.400 of the FSM.
5. Section 5-1404(C): This is confusing terminology. Perhaps replace "in accordance with current County policy according to specifications" with "in accordance with current County requirements".
6. Section 5-1405(B): This section should be clarified. Does this relieve buffering and screening between zoning districts on a split zoned parcel? If yes, the proposed change may be inconsistent with the purpose and intent of this section, which states "this Section is intended to mitigate the effects of uses on adjacent uses by requiring a screen and/or buffer between the uses in order to minimize the harmful impacts of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusion, and other objectionable activities or impacts conducted on or created by an adjoining or nearby use."
7. Section 5-1406(A): What is meant by pre-existing? If it is prior to January 7, 2003, the date should be referenced, consistent with the proposed change in Section 5-1406(B). As currently proposed, Sections 5-1406(A) and (B) appear to overlap. Also, the use of "pre-existing" and "existing" is inconsistent in Section 5-1406(A)(1) and (2).

A10

8. Section 5-1406(E)(2): It appears that proposed Section 5-1403(E) is intended to replace this Section. As previously stated, additional clarification is needed. Staff does not support removing the 4-foot berm requirement.
9. Section 5-1407(A): Given varying dimensions of required yards and setbacks, this proposed change could result scattered plant material, rather than a uniform buffer. Staff recommends that required dimension for buffer yard widths, both minimum and maximum, be provided.
10. Section 5-1409(E): Staff recommends this section remain as originally written. This change could result in no vegetation between uses. A blanket exemption is not appropriate. This provision should be evaluated on a case by case basis by the Zoning Administrator.
11. Section 5-1411: Staff recommends this section remain as originally written. This provision provides flexibility so that plant installation can coincide with a favorable planting season.
12. Section 5-1413(B)(3) and (5): Staff does not support further reducing an already limited planting area. Additionally, the proposed change could result in vehicles pulling up to the curb and striking the tree.
13. Section 4-1413(C): Staff recommends leaving the parking space threshold as 10 spaces. Staff also suggests restructuring the sentence as follows: "If any parking lot contains ten (10) or more spaces, except where parking areas adjoin a buffer yard required by this Ordinance, peripheral parking lot landscaping shall be required as follows:".
14. Section 5-1413(C)(1)(a): This revision has the effect of reducing the overall tree canopy requirement. Equivalent numbers and types of plant materials should be planted elsewhere on the site so that the overall tree canopy is achieved. Perhaps the last sentence should include " , provided that equivalent planting materials are provided elsewhere on the development site."
15. Section 5-1413(C)(1)(b) and (2)(b): Staff recommends this section remain as originally written. Shrubs and/or berming help to reduce the effects of glare from motor vehicle lights, consistent with the purpose and intent of this section.
16. Section 5-1413(C)(1)(c) and (2)(c): Service areas visible from adjacent properties of a less intense use (e.g. residential against commercial, single-family abutting multi-family, etc.) should still provide a visual buffer.
17. Section 5-1414(B): The proposed changes removed required minimum buffer widths. To ensure that a uniform buffer is provided, rather than scattered plant material, and that sufficient space is provided for viable, sustained plant growth, staff recommends adding minimum and maximum buffer yard width requirements.

All

18. Section 5-1414(B)(1): Numerous references within this section incorrectly refer to Section 5-1414(B)(5)... The correct reference is Section 5-1414(B)(1)... For example, the correct reference referring to required plants in Section 5-1414(B)(1)(d) should be Section 5-1414(B)(1)(b), not Section 5-1414(B)(5)(b).
19. Section 5-1414(B)(1)(f): Replace “that” with “than” in the second line.

The following are recommendations not related to ZORC’s proposed amendments:

1. Section 5-1403(A): Staff suggests adding the following as an initial provision in Section 5-1403: “All plant material will be installed in a landscape position that will allow for viable, sustained growth.”
2. Section 5-1414(C)(1): Staff recommends deleting Norway Spruce because the species is very prone to spread.
3. Section 5-1414(C)(5)(b): Staff recommends replacing “New Harmony” with “Valley Forge”. Valley Forge is far less susceptible to Dutch Elm Disease.
4. Section 5-1414(C)(b): Staff has concerns regarding the composition and break down of the lists provided in Section 5-1414(C)(b) through (h). Staff recommends revising the lists to provide for greater species diversity and better matching of species to site.
5. Section 5-1414(C)(5)(e): Staff recommends deleting Virginia pine due to the species high susceptibility to wind throw and potential safety hazard. This is consistent with comments made during plan review.

Additional Proposed Changes to 6-403(A)

6-403

Submission Requirements

- (A) **Submission Requirements.** The Board of Supervisors shall adopt by resolution regulations enumerating those materials required to be included with each application provided for in this Ordinance, which materials shall constitute the minimum submission requirements for such application and be consistent with the requirements of this Ordinance. Such submission requirements shall include a letter signed by the applicant and by the owner of the property granting the right of entry upon the property to the Zoning Administrator, law enforcement agents, and County inspectors for the purpose of inspecting, and bringing law enforcement to the property, during the term of any permit which may be issued. Such submission requirements shall also include, in the case of any application for a Zoning Map Amendment, Zoning Ordinance Modification, Zoning Concept Plan Amendment, Special Exception, Variance, Site Plan or Zoning Permit, the provision of satisfactory evidence from the Treasurer's Office that any real estate taxes due and owed to the County which have been properly assessed against the property have been paid. Additionally, such submission requirements shall also include, in the case of an application for Zoning Map Amendment, Zoning Concept Plan Amendment, Zoning Ordinance Modification, Special Exception or Variance, a completed Disclosure of Real Parties In Interest Form disclosing the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the name of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders. In the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium. Revisions to the list of those materials required necessitated by an amendment to this Ordinance shall be attached to such amendment for concurrent consideration and adoption by resolution of the Board of Supervisors.

No.	Z. O. SECTION NUMBER	DISTRICT	PAGE NUMBER	STAFF COMMENT AND RECOMMENDATION	PLANNING COMMISSION COMMENT AND RECOMMENDATION
53	Sections 2-903(OO), 4-203(A)(32), 4-203(B)(1) Article 8	RC PD-CC(NC) PD-CC(CC)	2-86 4-15 8-53	Staff suggests a minor change to "Training facility," which has been added as a permitted use in a number of districts, including PD-OP, PD-RPE, PD-JR, PD-GI, all PD-CC districts and RC. Article 8 includes this proposed definition, "A facility used for business, technical or professional training and/or certification, which may be operated as a principal use or as an accessory use to a permitted or permissible use." In RC, PD-CC(NC) and PD-CC(CC), staff suggests that "training facility, accessory to a permitted or special exception use" be included in the permitted use list and that "training facility" be listed as a special exception use.	
54	Sections 2-1402, 2-1502, 2-1602, 2-1702 TR-District Use Tables	TR-10, TR-3, TR-2 TR-1	2-141 2-150, 2-158 2-166	This amendment would allow "school (elementary, middle, or high), for more than 15 pupils" by-right in the TR-districts, rather than by special exception. Many other districts require a special exception for school uses. Staff does not believe a distinction should be made in the use lists between public and private schools.	
55	Sections 3-506(C)(2)(c), 3-506(C)(3)(c), 3-606(C)(2)(c), 3-606(C)(3)(c) Rear Yards for Single Family Attached (Suburban and Traditional Design Options)	R-8 R-16	3-29 3-36	Staff is concerned that the reduction in the minimum rear yard for single family attached dwellings from 25 feet to 15 feet coupled with the increase in maximum lot coverage (see item # 57) will reduce the amount of usable rear yard space.	
56	Sections 3-508(A)(2), 3-607(A)(2) Lot Coverage for Single Family Attached dwellings	R-8 R-16	3-30 3-37	Staff is concerned that the increases in maximum lot coverage for single family attached dwellings (from 50% to 75% in R-8 and from 60% to 75% in R-16) coupled with the reduction in rear yards for single family attached dwellings (see item # 56) will reduce the amount of open space on individual lots and reduce the usable rear yard space. Reducing rear yards is also inconsistent with the Revised General Plan.	
57	Article 3 R-district changes (Overall)			Staff notes that the changes to the R-districts include increased lot coverage, building heights and length/width ratio and decreased rear yards, moving these districts from suburban type development to a more urban type development. Is this the desired style of development in the R-districts?	
58	Section 4-104(D)(1), Impervious Surface	Commercial areas in PD-H	4-3	This amendment increases the impervious surface ratio on any single lot from 70% to 80%. This change is inconsistent with the Revised General Plan, which states that the County will prepare and implement design standards and principles that minimize the creation of new impervious areas.	
59	Sections 4-507(G)(1), 4-607(F)(1), Access	PD-IP PD-GI	4-51 4-60	This amendment deletes access language related to schools in PD-GI but retains the text in PDIP. Staff suggests the language be deleted in both sections.	

* This is an example of where amendments have "overtaken" the ZORC draft.

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60	Sections 4-305(B)(1), 4-405(B)(1), 4-505(B)(1), 4-605(B)(1), 4-705(B)(1), 4-805(F)(1) Yards, Adjacent to Roads	PD-OP PD-RDP PD-IP PD-GI PD-SA PD-TC	4-28 4-37 4-47 4-57 4-65 4-74	This amendment revises yard requirements adjacent to roads to permit parking between buildings and streets to be visible from roads. Revised General Plan policies do not support parking within the building setbacks in employment-related zones. This change would make the district regulations less consistent with the Plan.	
61	Sections 4-305(B)(2), 4-405(B)(2), 4-505(B)(2), Yards, Adjacent to Agricultural and Residential Districts and Land Bays Allowing Residential Uses	PD-OP PD-RDP PD-IP	4-28 4-37 4-47	This amendment revises yard requirements adjacent to agricultural and residential area to permit parking, outdoor storage, areas for collection of refuse and loading spaces between buildings and streets to be visible from such agricultural and residential areas. Staff is concerned that this amendment will adversely impact residential areas.	
62	Sections 4-306(C), 4-406(C) Floor Area Ratio	PD-OP PD-RDP	4-30 4-38	In particular in the PD-IP district, the elimination of the PD-IP location requirements (see item # 66) increases the likelihood that industrial parks will be located closer to residential areas and with increased visibility from residential areas. This amendment increases floor area ratio from .40 to .60 maximum and up to 1.0 maximum by special exception. Staff suggests no upper limit be noted, simply that higher FARs may be requested by special exception. Traffic increases could occur and the special exception process would help ensure that adequate levels of service are maintained.	
63	Sections 4-404(L), 4-503(H), 4-603(F) Permitted/Special Exception Uses	PD-RDP PD-IP PD-GI	4-36 4-42 4-52	This amendment eliminates the list of the types of manufacturing uses permitted. This may allow for more intense industrial uses in the PD-RDP and PD-IP districts. Staff suggests revising the use to "manufacture, processing, fabrication and/or assembly of products, excluding...." Section 3-907(J) includes a list of intense industrial uses.	
64	Section 4-501, Purpose Sections 4-503(G)/4-504(A) Permitted/Special Exception Uses	PD-IP	4-42 4-44	This amendment adds "office uses" to the PD-IP district purpose and adds "office, administrative, business and professional" to the list of permitted uses in PD-IP. Staff suggests office uses remain a special exception use, but would recommend that the criteria for its development under Section 4-504(A)(1) & 2 be deleted. If office becomes by-right, all prior special exception conditions for office development in PD-IP are no longer applicable. In addition, since the planned land use for many PD-IP zoned properties is keynote employment, the removal of a special exception decreases the ability of the Board of Supervisors to evaluate office proposals in areas designated for premier office development.	
65	Section 4-502, Size and Location	PD-IP	4-42	Staff does not support this change and suggests the existing language requiring PD-IP districts to be "located in areas served by one or more major arterial or collector roads" be retained.	
66	Sections 4-1019(C), 4-1121(D) Road Design	PD-TREC PD-TRC	4-124 4-147	This amendment eliminates the road design criteria which require certain roads in the district to be constructed to VDOT standards for inclusion in the state highway system. Staff does not support this change and suggests the existing language be retained.	

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67	Section 4-1206(C)(3) Village Center Subdistrict	PD-RV	4-153	Currently, the village center may contain no more than 300 dwelling units, exclusive of conservancy lots or accessory dwelling units. ZORC has added text to also exclude bonus units. An amendment is necessary, however, to resolve ambiguity/conflict with the density adjustments of Section 4-1208.	
68	Section 4-1511, Density Calculations	All	4-201	In exchange for excluding almost all uses from the floodplain, RSCOD allowed a density credit. FOD allows reasonable use and thus forbids density credit. The Plan supports density credit only in the RSCOD context. Staff notes that if the exclusion remains, there is still a consistency issue with the TR-districts which reference gross land area.	
69 *	Section 4-1603(C), Exemptions	All	4-204	ZORC proposed exempting "municipal drinking water supply" uses from the application of the performance standards in Sections 4-1604 and 4-1605 (MDOD). ZOAM 2006-0001 subsequently added subsection (D) which provides, "The uses described in and subject to Article I Section 1-404(B)(2) are exempted from the special exception requirements, subject to obtaining an approved 'Location Clearance Permit' from the Zoning Administrator or his/her designee, accompanied by as much information as the Zoning Administrator deems pertinent and such additional information as the Zoning Administrator may require to approve such 'Location Clearance Permit.' " Staff has made no change to this section based on the more recent language adopted with the ZOAM.	
70	Section 4-2104(A)(1) Average Front Yard	All	4-214	If the PC is inclined to recommend ZORC language, Staff would support exemption of the standards in Sections 4-1604(A), (B) and (E), with the following language added to Section 4-1604(D): "Prior to any land disturbing activity: i) on existing slopes of 25 percent or more, ii) within soil mapping units 27, 59, 88 or 89, or iii) for proposed municipal drinking water systems, the applicant shall provide a Preliminary Soils Review..." Staff believes a special exception should be required for any municipal drinking water supply use proposed in highly sensitive MDOD. Specific language can be provided if the PC is supportive of the SPEX requirement in highly sensitive MDOD.	
71	Section 4-2104(A)(2) Building Height	All	4-214	This amendment applies to yards in the Village Conservation Overlay District (VCOD). Staff suggests the existing language be retained. Requiring buildings to have a front yard "consistent with" existing front yards is more subjective than the current language, which requires front yards "of a distance equal to the average front yard." The current language ensures the continuity of front yards in the VCOD. It may be helpful to add language excluding accessory buildings from the calculation of average front yards. This amendment removes the building height requirements in the VCOD. Staff does not support complete elimination of this language and suggests the following: "Proposed buildings shall have a building height no higher than the highest building on the same side of the street within 150 feet of both sides of the parcel or parcels being developed, not to exceed the maximum building height permitted in the underlying zoning districts. Notwithstanding the foregoing, accessory buildings within 150 feet shall not be included when determining the highest building."	

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72	Section 4-2104(B)(3)(a) Sidewalks	All	4-214	This amendment proposes to change the sidewalk requirements in the VCOD. Rather than eliminating the requirements, staff suggests the addition of section (d) with the following language: "The Zoning Administrator may waive or reduce the requirements of this subsection in cases where i) the sidewalk terminates at an arterial highway; or ii) existing topographic conditions make construction of a sidewalk impractical; or iii) the parcels being created are greater than one acre in size."	
73	Section 5-701(C)(3)(a) Lot and Open Space Standards	TR-10 TR-3 TR-2 TR-1	5-104	The changes are not consistent with Revised General Plan policies. The proposed language eliminates specification as to the number of units in a cluster and, in terms of design, deviates from the concept of surrounding the cluster with open space. A cluster is a grouping of between 5 to 25 residential units. Staff is unsure as to why minimum front yards have been increased. Section 5-701(C)(3)(a)(ii) indicates a maximum building height of 35 feet, whereas the Lot Standards table revised maximum building height to 40 feet.	
74	Section 5-701(C)(3)(b)(iv) Allowed Uses in Open Space	TR-10 TR-3 TR-2 TR-1 Article 8	5-106 8-12	This amendment adds "conservancy lot with open space easement" as a permitted use allowed on the open space lands. The following definition has been added to Article 8: "a lot, excluding the hamlet/cluster lots, open space and/or hamlet green/square, which will remain as large parcel(s), the bulk of which is in permanent open space easement and a portion of which may be designated a building area."	
				It appears that the creation of the conservancy lot would permit the open space required in TR-districts to be located on individual lots.	
75	Section 5-900, Setbacks From Specific Roads and the W&OD Trail	All	5-124	Setbacks should be from the planned right-of-way. Staff sees no need to add "existing" to the first paragraph. The title of this Section is "Setbacks from Major Roads," yet "access from major roads" is now included. The title of the section should be amended accordingly or access requirements should be retained in the district regulations. Buildings must currently be set back from planned rights-of-way, including the filets or connectors between rights-of-way. Staff does not support the change to remove filets from the setback requirements since they are part of the interchange design. Staff is also concerned about the use of the term "commercial districts" as this term is not defined. The PC recommended (3/5/07) the word "nonresidential" replace "commercial" where similar wording was used in another section. (See item # 14 on the table entitled "Staff Comment (Part 1), Planning Commission Work Session—March 5, 2007.)	

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STAFF COMMENT (PART 2), PLANNING COMMISSION WORK SESSION

4/9/07

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76	Section 5-1504(A) Light and Glare Standards	All	5-195	This amendment exempts lighting at "publicly owned facilities utilized for athletic competition." Staff is concerned about the proposed change, given the potentially large scale of athletic facilities and the time of day the facility will be lighted. There is the potential for glare and light impacts on adjoining properties, including residences.	
77 *	Section 5-1508(E)	All	5-205	ZORC proposed exempting "municipal drinking-water supplies" from the development standards on very steep slopes. ZOAM 2006-0001 subsequently amended this section to exempt "drinking water supply reservoirs." Staff has made no change to this section based on the more recent language adopted with the ZOAM.	
78	Sections 7-102(A), 7-102(D)(7) Applicability	R-1 CR-1 TR-1 JLMA-1	7-8	Currently, the requirements of Article 7 apply when a development is served by public water and sewer and yields 50 or more dwelling units at a density greater than one unit per gross acre. ZORC proposes that gross acre be replaced with 40,000 sq. ft. If this change is made, staff does not see the need to add Section 7-102(D)(7), which proposes to specifically exempt land zoned R-1, CR-1, TR-1 and JLMA-1.	

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Bin Items and Revisions Outside the Scope of the ZORC Draft—April 4, 2007

The following issues were identified in the March 6, 2007 item to the Board of Supervisors:

1. Section 5-600, Performance standards regarding camps
2. All items “binned” by the Commission during the rural remapping amendments; they believe that there are a dozen or so items, to include such issues as:
 - a) Rural retreats and resorts, country inns, etc.
 - b) The creation of a new zoning district to allow for a different form of clustering in the rural areas (“rural village”)
 - c) Permit extension of central water and sewer to parcels contiguous to the villages, towns and JLMAs in order to protect the environment, address public health & safety and otherwise provide for the public benefit
 - d) Allow alternative systems in the rural areas by special exception
3. Resolve the disconnect between performance standards regarding three use categories “Agriculture”, “Agricultural Support Uses, Directly in association with an agricultural use” and “Agricultural Support uses, not directly associated...”
4. Consider all convenience stores to have gas pumps as a permitted use in the several zoning districts
5. Increase the floor area ratio more than the ZORC recommends in the PD-OP district
6. Consider indoor recreation facilities in the AR districts as a special exception use (similar to ZORC recommendation for A-3)
7. In the Transit Related Center District, eliminate the requirement that parking structures must be enclosed on the first floor when not screened by a building.
8. Review and revise as necessary Section 6-1800 & 6-1900 (historic districts)
9. Review and revise as necessary Section 5-1200 (Signs) with regard to sign area and the streets upon which they are located, to include performance criteria
10. Revise residential districts (Articles 2 & 3) to reflect density (dwellings per acre) and provide consistency with density credit regulations in Article 1.
11. Increase the minimum lot area for airport/landing strips.
12. Consider increasing the setback from the W&OD trail
13. Add definition of “solid waste vehicles & containers” to fully implement ZORC recommendation
14. Consider the Rural Economy Development Council recommendations to:
 - a) make changes to several use definitions
 - b) add clarity to open space and density definitions to include conservation easements,
 - c) consider allowing wetlands mitigation banking,
 - d) consider allowing combinations of seasonal uses,
 - e) clarify farm restaurant as a use, and
 - f) creation of a “sliding scale” approach to events, remove inconsistencies within Section 5-600.

Issues subsequently identified in Planning Commission work sessions:

1. Add “contractor service establishment, excluding retail sales and outdoor storage” to the permitted use list in PD-IP, rather than a special exception use.

2. Revise performance standards for retail uses in PD-IP.
3. Revise section 5-400(E) regarding home occupation uses.
4. If needed, add clarifying language to Section 5-500.

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